

MINUTES
U.S. Bankruptcy Court, Northern District of California
Bench-Bar Liaison Committee Meeting
San Francisco
September 25, 2001

Members Present: Chief Judge Edward D. Jellen, Judge Thomas E. Carlson, Judge James R. Grube, Judge Alan Jaroslovsky, Judge Dennis Montali, Judge Marilyn Morgan, Judge Randall J. Newsome, Judge Leslie Tchaikovsky, Judge Arthur S. Weissbrodt, Donald H. Cram, Esq., Devin Derham-Burk, Esq., Michael Fallon, Esq., Frederick D. Holden, Jr., Esq., David I. Katzen, Esq., Charles Logan, Esq., Eric Nyberg, Esq., Mr. Mohamed Poonja, Reidun Stromsheim, Esq., Edward Tredinnick, Esq., Bennett Young, Esq.

Members Absent: Alfred Moore, Esq.

Also Present: Acting Chief Clerk, Gloria Franklin; Shawn Christianson, Esq.

Welcome

Appointees Donald Cram, Eric Nyberg, Reidun Stromsheim and Ben Young were welcomed to their first meeting.

Amended FRCP 26

FRCP 26 is applicable in adversary proceedings and contested matters by BR 7026 and 9014, except as the court directs otherwise. A local rule of the Northern District had exempted all cases and proceedings from its application, but opting out by *local rule* no longer permitted by the current version of FRCP 26. Variance by court order or stipulation is permitted, however. BR 9014 will likely be amended to delete any reference to FRCP 26 (as it has no useful role for most motions). The Judges reported on their current practices under new Rule 26.

In Santa Rosa an order is being issued automatically in each new adversary proceeding, specifying that Rule 26 does not apply, unless a party seeks application of the rule. Judge Jaroslovsky is planning a seminar on the Rule, after which the current order will no longer be used.

In San Francisco and Oakland, a form of order is in use, derived from the order in use for some time in the Eastern District of California. Small cases are exempted from the requirement of a written discovery plan, but not from the discovery conference and disclosures. Parties in any size case may stipulate out of written discovery plan (only). Unlike the Eastern District order, disclosures are limited to information helpful to one's own case.

In San Jose, the Judges will continue to use the form order they have been issuing at the outset of all adversary proceedings.

Judge Newsome's Case-Law Compendium

There was discussion of how best to make this compilation available to the bar. It is a 1 1/2" thick collection of precedents, almost entirely from *The Recorder*, organized by topic alphabetically. It can be searched using WordPerfect 5.3. It might be suitable for publication on the website of the BASF or CBF or the State Bar Insolvency Committee. *The Recorder* has consented and waived any reprint fees.

Judge Newsome noted that the citations should be Shepardized and converted to model citations. The Committee will evaluate possible publication vehicles and conversion to official citation form.

Electronic Court Filing Project

Acting Clerk of the Court Gloria Franklin reported on the progress being made to implement this project. The original implementation date was set back when the Clerk resigned. We are on track for implementation about December 2002.

Participation will be largely mandatory on day one. The Clerk's office is therefore planning training for law offices, on dates close to the implementation date. Additional attorney training and the desirability of backup servers were discussed. The Clerk's office will advise the bar of the likely hardware and software requirements.

Proposed Federal Rules Amendments

Comments are due on February 15, 2002. We will coordinate our comments with BASF, BABF and the State Bar Insolvency Committee. Chief Judge Jellen will circulate the position of the Chief Judges group.

Bankruptcy Court's Master Mailing List of Lawyers

There was a discussion of how best to maintain the accuracy of this list, which is used for court-generated notices such as 341 notices. Ms. Franklin will review the issues raised.

BDRP

Judge Weissbrodt reported on the astounding success of BDRP in our District. Fewer matters were referred this year, but that likely reflects the reduced number of matters to refer. 84% of referred cases that have gone to completion of the process have settled. In a survey, participants generally gave very positive comments.

The desirability of a clarification of the extent of the advocate's free BDRP time was discussed. The Judges emphasized the discretion the advocate has to set a reasonable limit and the desirability of announcing that limit to the participants at the outset. Judge Weissbrodt will add that point to the form letter to the parties.

Courthouse Security

The recent increases in security were discussed.

New Form Chapter 13 Plan

A new form plan went into effect October 1 in Oakland and San Francisco. The Judges would appreciate comments from trustees and the bar.

Compensation Guidelines

The Judges would like comments from the bar and trustees on the existing guidelines, with an emphasis on aspects that may have become out of date. Fax charges and the dollar limit on the use of a short-form application are areas that may bear review.

Frederick D. Holden, Jr.
Chair